

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
*Norfolk Division*

UNITED STATES OF AMERICA,

v.

Criminal Nos. 2:19-cr-47

AGHEE WILLIAM SMITH, II,

Defendant.

**DEFENDANT’S MOTION TO REISSUE  
OR CONTINUE SUBPOENAS TO THE NEW TRIAL DATE**

The defendant, Aghee William Smith, II, respectfully moves this Court to either continue the subpoenas already served to the new trial date or to reissue the subpoenas for the new trial date, currently set for February 1, 2022. In preparation for trial, Mr. Smith subpoenaed multiple witnesses to appear for the November 16, 2021 trial date. ECF Nos. 194, 197, 200. After the subpoenas were issued, the jury trial was continued to February 1, 2022, at 10:00 a.m. at the federal courthouse located at 600 Granby Street, Norfolk, Virginia. Mr. Smith still needs those witnesses to appear at trial for the new court date. Other parties in this case have subpoenaed witnesses as well.

Mr. Smith seeks to ensure that his previously subpoenaed witnesses remain under an enforceable Court order to appear at the new trial date. A “subpoena to appear at a court proceeding does not automatically ‘float’ to the new date when the court continues the proceeding.” *Gaudin v. Remis*, 2007 WL 294130, \* 3 (U.S. Haw. Jan. 29, 2007). A continuance of a trial nullifies a subpoena. *Compton v. Torch, Inc.*, 2000 WL 622604, \* 4 (E.D. La. May 11, 2000). “The parties or the court, however, may take action to continue the subpoena to the new date.” *Id.*; *Dowe v. Nat’l R.R. Passenger Corp.*, 2004 WL 1393603, \*3 (N.D. Ill. June 22, 2004) (“The witnesses’ trial subpoenas were continued by court order following the mistrial.”).

Accordingly, Mr. Smith requests that the Court continue the previously issued subpoenas. In the alternative, Mr. Smith asks for the Court to reissue the previous subpoenas and direct the U.S. Marshals Service to serve the witnesses once again.

Respectfully submitted,

AGHEE WILLIAM SMITH, II

By: \_\_\_\_\_/s/ \_\_\_\_\_

Lindsay Jo McCaslin  
VSB No. 78800

Andrew W. Grindrod  
VSB 83943

Assistant Federal Public Defenders  
Attorneys for Aghee William Smith, II  
Office of the Federal Public Defender  
150 Boush Street, Suite 403  
Norfolk, Virginia 23510  
Telephone: 757-457-0800  
Telefax: 757-457-0880  
Email: [lindsay\\_mccaslin@fd.org](mailto:lindsay_mccaslin@fd.org)  
[andrew\\_grindrod@fd.org](mailto:andrew_grindrod@fd.org)